HOUSE OF COMMONS LIBRARY

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Non-Domestic Rating (Lists) (No.2) Bill 2019-21

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Summary

The *Non-Domestic Rating (Lists) (No.2) Bill 2019-21* was introduced into the House of Commons on Tuesday 8 September. Second Reading is scheduled for 30 September. The Bill, and associated documents, can be found on the Parliamentary website.

This Bill supersedes the *Non-Domestic Rating (Lists) Bill 2019-21* ('the previous Bill'), which was introduced into the House of Lords on 18 March 2020. That Bill had previously been in Parliament during the 2017-19 session. It had progressed through the House of Commons and reached Second Reading stage in the House of Lords.

The Bill would postpone the date on which the next revaluation of business rates in England and Wales takes effect from 2022 to 2023. It does not extend to Scotland or Northern Ireland.

This Bill makes no changes to the length of time between revaluations of rateable values. The previous Bill would have brought forward the date on which the next revaluation takes effect from 2022 to 2021, and replaced the existing five-year cycle with a three-year cycle in both England and Wales (with subsequent revaluations in 2024, 2027 and so on). That would have implemented commitments originating in the 2017 Budget and 2018 Spring Statement.

1. Business rates and revaluations

1.1 Introduction

The *Non-Domestic Rating (Lists) (No.2) Bill 2019-21* was introduced into the House of Commons on Tuesday 8 September. Second Reading is scheduled for 30 September. The Bill, and associated documents, can be found on the Parliamentary website.

This Bill supersedes the *Non-Domestic Rating (Lists) Bill 2019-21* ('the previous Bill'), which had its first reading in the House of Lords on 18 March 2020. It made no further progress due to the coronavirus pandemic. It was identical to the *Non-Domestic Rating (Lists) Bill 2017-19*, which made some progress in the House of Commons in that session of Parliament.

Business rates are devolved to Scotland, Wales and Northern Ireland. The Government's Explanatory Notes take the view that both of the clauses of the Bill extend to England and Wales, but not Scotland or Northern Ireland. The Government has sought a Legislative Consent Motion (LCM) for the Bill in the Welsh Parliament.

1.2 Changes from the previous Bill

The present Bill is different from the previous Bill. It postpones the date on which the next revaluation of business rates will take effect from 1 April 2022 to 1 April 2023. The previous Bill would have brought that date forward to 1 April 2021. The decision to postpone the date to 2023 was made due to the effects of the coronavirus pandemic.[1]

The present Bill also makes no changes to the frequency of revaluations in either England or Wales. The Government committed in 2017 to move from a five-yearly to a three-yearly revaluation cycle in England (see section 2.1 below). The previous Bill would have provided for revaluations in 2021, 2024 and every three years thereafter.

The Explanatory Notes to the present Bill state that "although the Government continues to recognise the benefits of frequent revaluations, this is now being considering as part of a fundamental review of business rates".[2] If this Bill passes and no further changes are made to the revaluation cycle, the next revaluation after 2023 would take effect in 2028.

The Bill will require a Ways and Means Resolution in the House of Commons, as it will lead to changes in the pattern of taxation.

1.3 Business rates: the system

All non-domestic properties in England, Scotland and Wales pay non-domestic rates or 'business rates'. Each non-domestic property is assigned a 'rateable value', which represents the open market rental value of a property on a specified 'valuation date'. The rateable value is

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1 HC WS 400 2019-21, 21 Jul 2020
2 *Non-Domestic Rating (Lists) (No.2) Bill 2019-21*, Explanatory Notes, 2020, p3

then multiplied by a 'multiplier' (set separately in each area) to produce the annual business rates bill. Hence a property with a rateable value of £20,000, alongside a multiplier of 49.3p, will pay £9,860 per year (i.e. £20,000 x 0.493). More details are available in the Library briefing paper *Business rates*.

Most properties' rateable value is based on their 'annual rental value', i.e. the amount for which they would let on the open market in good condition. Where it is difficult to obtain sufficient evidence to assign an annual rental value, other methods may be used (see the Library briefing paper *Business rates*).

1.4 Revaluations

Rateable values are subject to regular updating via revaluation. This is done to ensure that they stay broadly in line with properties' annual rental value. Revaluations are carried out by the Valuation Office Agency (VOA) in England and Wales.

From 1990 onwards, business rates revaluations took effect on 1 April every fifth year (1995, 2000 etc.). The revaluation that would have taken effect from 1 April 2015 was postponed by two years to 1 April 2017:

> In 2012, the government postponed the 2015 revaluation until 1 April 2017 in order to provide greater stability for businesses during a period of economic downturn. That avoided local firms and local shops being faced with unexpected hikes in their business rate bills. As business rates are linked to inflation, there will be no real-terms increase in rates up to 2017. The decision will provide certainty for business to plan and invest, supporting local economic growth.[3]

Properties' rateable values are assessed as at a specific date (the 'antecedent valuation date' or AVD). In England and Wales, the most recent revaluation took effect on 1 April 2017. This was based on rental values at 1 April 2015. Details of the 2017 revaluation can be found in the Library briefing paper *Business rates: the 2017 revaluation*.

Before 2017, the most recent revaluation came into effect on 1 April 2010.[4] The 2023 revaluation will be based on rental values as at 1 April 2021. This is itself an important change compared to the predecessor Bill. The UK economy in general is likely still to be significantly affected by the coronavirus pandemic on that date. The VOA will have to decide to what extent economic changes resulting from the pandemic will be taken into account in rental values.

1.5 Business rates in Wales

Business rates are devolved to Scotland, Wales and Northern Ireland. Decisions on business rates in England are made by the UK

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3 HM Treasury, *Administration of business rates in England: discussion paper*, April 2014, p12

4 Sections 29-30 of the *Growth and Infrastructure Act 2013* delayed the 2015 revaluation until 2017 in England. Both the Scottish and Welsh governments subsequently also chose to delay revaluation to 2017.

Government. Recent debates on the frequency of revaluations (see section 2.1 below) have been led by the Treasury and have concerned decisions for England.

The current Bill includes a provision to alter the date of the next revaluation in Wales from 2022 to 2023, mirroring the decision that the UK Government has made for England (see section 3 below). The Welsh Government announced its decision to postpone the revaluation date on 11 August 2020.[5] The Welsh Parliament has power to legislate in this area: therefore, this part of the Bill will require a Legislative Consent Motion to pass through the National Assembly.

When the previous Bill was in Parliament, the Welsh Government had not announced any intention to move to a three-yearly cycle in the long term. This Bill does not change the revaluation cycle for either England or Wales. The Welsh Parliament has the power to legislate to change the frequency of the cycle in the future.

1.6 Revaluation in Scotland and Northern Ireland

In Scotland, the 2017 Barclay Review of non-domestic rating contained a recommendation on revaluation frequency:

> There should be three yearly revaluations from 2022 with valuations based on market conditions on a date one year prior (the 'tone date').[6]

The Scottish Government's response to the Review proposed a move to a three-year revaluation cycle, but in different years for that envisaged for England and Wales:

> 13. We intend to bring forward primary legislation to deliver this following the next scheduled revaluation in April 2022 (which as per current legislation will have a valuation 'tone date' two years prior).
>
> 14. The subsequent revaluation will therefore take effect in April 2025 with a valuation 'tone date' of April 2024.[7]

Subsequently the Scottish Government has confirmed that it too will postpone its next revaluation to 2023, but that it will introduce three-yearly revaluations after that (2026, 2029 and so on). As recommended by the Barclay Review, it will also introduce a 'one-year tone date', that is, a period of one year between a revaluation's AVD and the revaluation taking effect. As noted, this period is currently two years (in England, Scotland and Wales). In correspondence with the Scottish Parliament's Local Government and Communities committee, the Scottish Government said:

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5 Welsh Government, Written Statement: Non-Domestic Rates Revaluation for Wales, 11 Aug 2020

6 Scottish Government, *Report of the Barclay Review of non-domestic rates*, August 2017, p41. The 'tone date' is the same concept as the 'antecedent valuation date', referred to above.

7 Scottish Government, *Non-domestic rates: implementation plan in response to the Barclay Review*, December 2017, p.3

> The Scottish Government announced in the Programme for Government that the next non-domestic rates revaluation in Scotland will be delayed by one year. It is now scheduled to take effect on 01 April 2023, the same year as in England and Wales.
>
> However, unlike England and Wales, the next revaluation in Scotland will be based on rental values as at 01 April 2022, and not 1 April 2020 as was previously scheduled, nor 01 April 2021 as will now be the case in England and Wales.
>
> Basing revaluation on rental values as at April 2022 instead of 01 April 2021 will give sufficient time for market conditions to fully adjust to any post-Covid effects, more so than anywhere else in Great Britain, and these will be reflected in the rateable values assessed which should be more accurate and sustainable. By delaying revaluation, we will reduce any shocks and provide stability and certainty on rates bills in the recovery period.
>
> This also delivers our commitment to the Barclay Review's recommendation to move to revaluations with a one-year tone date. We are doing this two years ahead of schedule, the Barclay Review having proposed that this reform be introduced from the 2025 revaluation onwards only.
>
> The Government is also committed to the Barclay Review's recommendation to move to three-yearly revaluations. The next revaluation after 2023-24 will therefore be statutorily scheduled for 01 April 2026 (with a tone date of 01 April 2025).

Northern Ireland's most recent business rate revaluation came into effect on 1 April 2020, based on a valuation date of 1 April 2018.[8]

[8] See the Department of Finance's Reval2020 website.

2. Business rates: policy on revaluations

2.1 Government policy review

In 2014 the Government published a consultation entitled *Administration of business rates in England: discussion paper*. This included an invitation for views on the following questions:

> 6 Some ratepayers have suggested establishing annual, 2-yearly, or 3-yearly revaluations instead of the normal 5 yearly cycle. How frequently do you think the rateable value of a property should be re-assessed at a revaluation, bearing in mind possible impacts on the predictability and volatility of bills? Why?
>
> 7 Would your views change if more frequent revaluations meant:
>
> a. rates bills changed more often i.e. were less stable and less predictable than currently?
>
> b. it were necessary to use a less individualised approach to valuing property than currently which would mean that ratepayers with different rents, who at the moment pay significantly different bills, might pay the same amount?
>
> 8 Do you think ratepayers would be more, less or just as likely to appeal the rateable value of their property if revaluations were more frequent?
>
> 9 Reducing the time allowed to prepare a revaluation from the current 2 years would also reduce the time available for ratepayers to check their rateable values and prepare for changes to their rates bills. It would also mean the Valuation Office Agency would have less time to collect and analyse rental evidence to prepare valuations. How do you think this would impact ratepayers and local authorities?
>
> 10 What is your understanding of how a revaluation affects final business rates bills? Would you like to receive more information from the government on how this works?[9]

The Government then published a document entitled *Administration of business rates in England: interim findings* in December 2014. This review indicated some stakeholder enthusiasm for introducing more frequent revaluations:

> The government has heard a wide range of views on how often property should be valued. Some groups wish to retain the current 5 year cycle whereas others have called for more frequent revaluations on the basis that it could make rateable values more responsive to changes in market conditions. There is no consensus on what the best length of the cycle might be. Although 3 yearly revaluation was the most popular option, others favoured annual revaluation. The reasons given for increasing the frequency of revaluations also vary.[10]

The Government stated that it:

9 HM Treasury, *Administration of business rates in England: discussion paper*, April 2014, p14

10 HM Treasury, *Administration of business rates in England: interim findings*, December 2014, p13

> ….received over two hundred written responses to the review and officials held over thirty workshops throughout England. The interim findings were published in December 2014. A key theme of the responses was for the business rates system to be made more responsive to economic conditions.[11]

The Government published a consultation document in March 2016 entitled *Business rates: delivering more frequent revaluations*. This consultation noted a number of challenges that would be faced by moving from a five-year to a three-year valuation cycle:

- More regular calls upon ratepayers to provide 'rental evidence' – that is, information about their properties that allow the VOA to generate a rateable value for each property;
- Greater pressure of work on the VOA, which would "require significantly more skilled staff";[12]
- The possibility that more revaluations would generate more appeals (by ratepayers against their property's new rateable value), putting further pressure on the VOA. A new appeal system was introduced in England in April 2017.[13]

The consultation paper also invited views on a 'self-assessment option' – allowing taxpayers to identify their own rateable value – and a 'formula option' – essentially assigning rateable values using a formula based on size, layout, location (for example). In the Autumn Budget 2017, the Chancellor, Philip Hammond, committed to altering the frequency of valuations from five years to three years:

> …[the Government will]…increase the frequency with which the VOA revalues non-domestic properties by moving to revaluations every three years following the next revaluation, currently due in 2022. To enable this, ratepayers will be required to provide regular information to the VOA on who is responsible for business rates and property characteristics including use and rent.[14]

The then upcoming revaluation scheduled to take effect in 1 April 2017 would remain in place. The 2018 Spring Statement announced that the next revaluation would take effect from 1 April 2021 (a four-year gap), followed by a regular three-year cycle (2024, 2027 etc.).

2.2 The first *Non-Domestic Rating (Lists) Bill*

The *Non-Domestic Rating (Lists) Bill 2017-19* was introduced into the House of Commons on 12 June 2019. Second Reading took place on Monday 17 June. Committee Stage, consisting of a single evidence session and a single scrutiny session, took place on Tuesday 25 June. No amendments were tabled, and Third Reading took place on 23 July. In the House of Lords, First Reading took place on 23 July, and Second Reading on 30 September 2019. The Library produced a briefing paper

[11] Explanatory Notes, p.2
[12] HM Treasury, *Business rates: delivering more frequent revaluations*, 2016, p7
[13] See the Library briefing paper *Business rates* for an account of the new appeal system *Check, Challenge, Appeal*: see also statistics on appeals since 2017 on the VOA web pages.
[14] HM Treasury, *Budget 2017*, p34

on the Bill, which includes details of background debates and the Bill's progress in Parliament.

That Bill would have implemented the Government's commitment to bring forward the date on which the next revaluation would take effect from 2022 to 2021 in both England and Wales. In England, it would have replaced the existing five-year cycle with a three-year cycle (with subsequent revaluations in 2024, 2027 and so on). It also made consequential amendments to the law around transitional relief schemes.

That Bill was re-introduced into the House of Lords in the current (2019-21) session, but it has not been progressed due to the coronavirus pandemic.

2.3 Why revaluation frequency matters

The purpose of business rate revaluations is to ensure that a link is maintained between economic conditions and the amounts paid by business rate-payers. In principle, the rateable value of a property functions as a measure of economic conditions. Where a local economy is successful, this will translate into higher rents and thus higher rateable values. Regular revaluations are the means by which the business rates system takes account of these changes.

Large changes in rateable values at a revaluation can translate into large or very large sudden increases, or decreases, in business rate bills. Large increases cause unhappiness, and potentially economic difficulties, for rate-payers.

In principle, the more frequently revaluations take place, the fewer large changes of this kind should result. For instance, where there is a gap of many years between revaluations, it is possible for economic conditions (and therefore rental values) to diverge considerably over this time, leading to a very sharp change at revaluation. In contrast, if a revaluation were to take place every one or two years (for example), there would not be time for substantial changes of this kind to accumulate. This would lead to fewer sharp changes in business rate bills.

The Government committed to a 'fundamental review' of the business rate system in the Budget of 11 March 2020.[15] This reflected statements made during debates in the House of Commons on the previous Bill.[16] They also published terms of reference for the review:

> HM Treasury will conduct a fundamental review of business rates with the objective of:
>
> 1. reducing the overall burden on businesses
> 2. improving the current business rates system

[15] More information on the fundamental review of business rates can be found in section 4 of the Library briefing paper *Reviewing and reforming local government finance*.

[16] See, for instance, HCDeb 17 Jun 2019 c76-77; PBC Deb 25 Jun 2019 c3

3. considering more fundamental changes in the medium-to-long term

HM Treasury published a call for evidence on 21 July 2020.[17] This document included a discussion of valuation frequency. One of the questions asked by the call was "What are your views on the frequency of revaluations and what changes should be made to support your preferred frequency?"[18] The review said:

> Previous consultation found that there was little appetite for revaluations to be done through a system of ratepayer self-assessment or through a formula-based system. Alternatively, more frequent revaluations could be achieved through changes to the valuation basis that move away from precise valuations for individual properties or through changes to the way in which the information necessary for revaluations is collected.[19]

2.4 Rateable values and the multiplier

In England and Wales, increases in rateable values do not automatically translate into increases in rate bills. The *Local Government Finance Act 1988* requires the multiplier to be adjusted at a revaluation to offset changes in rateable value. The objective of this adjustment is to ensure the revaluation is revenue neutral after allowing for inflation and future appeals. In making the adjustments the Government must also have regard to inflation and estimated future changes to those rateable values (for instance, adjustments arising from appeals).[20]

This principle applies separately in England, Scotland and Wales. Most recent revaluations have seen a rise in the overall quantity of rateable value in each territory, which has triggered a fall in the multiplier.[21]

This legal requirement interacts with the effects of more frequent revaluations to impact on business rate bills. It could have unexpected impacts, as explained by the Government:

> 2.9 The Valuation Office Agency's analysis in the Annex shows that more frequent revaluations would make rates bills more responsive to relative changes in the property market. So if rents in one location were falling in comparison to the national average for all properties, then more frequent revaluations would ensure this was reflected in bills. This is why many stakeholders feel that more frequent revaluations would make the rating system fairer.
>
> 2.10 However, the analysis also shows that if rents are falling over England as a whole, then some properties whose rents have fallen by less than the average could see their rates bill increase. If those ratepayers had expected their rates bill to fall then they are unlikely to consider such an outcome as fair or reasonable.[22]

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17 HM Treasury, *Fundamental review of business rates: call for evidence*, 21 July 2020
18 Ibid., p20
19 Ibid., p17-18
20 See schedule 7 paragraph 5 of the *Local Government Finance Act 1988*
21 The 2017 revaluation in Wales was an exception: this saw a fall in total rateable value in Wales, which triggered a small rise in the Welsh multiplier in 2017-18.
22 HM Treasury, *Administration of business rates in England: interim findings*, December 2014, p15

It is not clear how the coronavirus pandemic's effects on the economy would translate into rises or falls in rental values in different regions and economic sectors.

2.5 Transitional relief

To protect businesses from the effects of substantial changes in rateable values, transitional arrangements (also known as 'transitional relief') can be used to dampen the effects of revaluations on business rate bills. There is a legal requirement for England to use a transitional scheme to phase in substantial increases or decreases in a ratepayer's bill following a revaluation.[23] Regulations to enact a transitional scheme must come into force in advance of 1 January before the financial year to which they apply.[24]

Clause 2 of the previous Bill would have adjusted the provision in section 57A (13) of the 1988 Act, which provides that a transitional scheme must cover a period of five years following a revaluation. It would also have amended the *Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016*, which introduced the 2017-22 transitional scheme in England.

There is no legal requirement to institute a transitional scheme in Wales. The Welsh Government did use a transitional scheme following the 2017 revaluation, but it did not do so following the 2010 revaluation.

23 See section 57A of the *Local Government Finance Act 1988*, inserted by section 65 of the *Local Government Act 2003*.
24 See section 57A (9) of the *Local Government Finance Act 1988*

3. The Bill

Clause 1 (2) of the Bill would amend the core legislation in the *Local Government Finance Act 1988*, concerning the compilation of rating lists by local 'valuation officers'. It provides that this must next take place in 2023 instead of 2022. The legislation that this sub-clause would amend has effect only in England, and thus this sub-clause too has effect only in England.

Clause 1 (3) of the Bill makes the same provision for the 'central list' in England. The 'central list' is a list of very large and geographically-dispersed properties, such as railways and power distribution networks. It is maintained by the Secretary of State, and the Government retains the business rate revenue deriving from it (see the Library briefing paper *Business rates* for more information).

Clause 1 (4) makes the same provision for local rating lists in Wales, and for the Welsh central list, which is maintained by the Welsh Government. The original legislation for Wales is found in a different section of the 1988 Act.

Clauses 1 (2) (b) and 1 (3) (b) would provide that, for England, draft new rating lists will now be sent to billing authorities (district and unitary councils) three months before they come into effect, instead of the six months that is currently the case. The Explanatory Notes say:

> …ratepayers cannot estimate their new rates bill from just their draft rateable value as they also need to know the new non-domestic rating multipliers and details of the transitional arrangements. Historically these have only been confirmed at the time of the autumn fiscal event which comes later than the end of September. Therefore, in order to enable the alignment of the publication of draft rateable values with the confirmation of the multipliers and transitional arrangements, the Bill will shorten the period of the draft rating list to no less than three months in England and Wales.[25]

Currently the deadline for the provision of draft rating lists is 30 September. This change could have significant impacts on local authorities, which would have made significant progress with their budget process for the following financial year by 31 December. It also has the potential to cut across the recommendation of the 2018 Hudson Review that the provisional local government finance settlement should be published by 5 December each year.[26] This would be challenging in the absence of draft new rating lists, as local authorities would not be able to estimate their rate income for the following financial year.[27]

[25] *Non-Domestic Rating (Lists) (No.2) Bill 2019-21*, Explanatory Notes, 2020, p3
[26] See Andrew Hudson, *Local government finance: review of governance and processes*, 24 October 2018, p13-15
[27] See, for instance, PBC Deb 25 Jun 2019 c11; Written evidence 002, Rating Surveyors' Association, 26 June 2019; Written evidence 003, Greater London Authority, 26 June 2019

Disquiet over this change was noted by the Minister, Lord Younger of Leckie, at Lords Second Reading of the previous Bill:

> We are aware of concern from local authorities that changing the date of the draft rating list from the end of the previous September will impact on their billing and budgeting process. The Bill provides only that the end of December preceding the revaluation is the latest date by which the draft list must be published. It may be that a sensible time to make the draft list available is at the time of the autumn Budget, alongside the confirmation of the multipliers and transitional relief. That is something that we will discuss with local government, and the Bill will allow us to do just that.[28]

Clause 2 (1) provides that the Bill extends to England and Wales, and clause 2 (2) provides its citation.

[28] HLDeb 30 Sep 2019 c1578; see also PBC Deb 25 Jun 2019 c20

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